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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,582	10/23/2003	Sarah Rich	99990-054001	5979
26171	7590	10/20/2005	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			OGDEN JR, NECHOLUS	
			ART UNIT	PAPER NUMBER
			1751	
DATE MAILED: 10/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,582

Applicant(s)

RICH, SARAH

Examiner

Necholus Ogden

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) 10-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

Election/Restrictions

1. Applicant's election without traverse of claims 1-9 and 26-27 in the reply filed on 7-28-05 is acknowledged.

Response to Amendment

Claim Rejections - 35 USC § 102

1. Claims 1-7 and 26-27 rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Thurman et al (2004/0121050) is withdrawn.

Claim Rejections - 35 USC § 103

2. Claims 1, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aleles et al (6,818,603).

Aleles et al disclose a cleansing soap bar comprising fatty acid soap (col. 3, lines 58-67), anti-acne active ingredients such as flavinoids (col. 5, lines 5-7) and a delivery system comprising a pH altering compounds.

Aleles et al do not teach each of the claimed components with sufficient specificity to exemplify the claimed composition. However, it would have been obvious to one of ordinary skill in the art to combine the components to sufficiently teach the claimed composition because each of the components are well known in the skin cleansing art as conventional components and one of ordinary skill would have been motivated to combine the components to teach the claimed composition, absent a showing to the contrary.

Response to Arguments

Applicant argues that Aleles does not teach the claimed invention and particular the functional language of realizing color change results.

The examiner contends that the composition is suggested by Aleles because each of the components is taught for the purpose of cleansing. With respect to the functional language, the examiner contends that this does not have to be suggested by the prior art.

The reason or motivation to modify the reference may often suggest what the inventor has done, but for a different purpose or to solve a different problem. It is not necessary that the prior art suggest the combination to achieve the same advantage or result discovered by applicant. In re Linter, 458 F.2d 1013, 173 USPQ 560 (CCPA 1972).

New grounds of rejections

3. Claims 1 and 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by FR (2805162).

FR '162 teaches a hand washing composition, using soap containing a pH indicator that changes color after predetermined washing time (see abstract).

As this reference teaches all of the instantly required it is considered anticipatory.

4. Claims 1-2, 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aleles in view of George (6,403,543).

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Aleles is relied upon as set forth above. Specifically, Aleles does not teach applicant's alginate bead component.

George discloses a soap bar with suspended articles (see abstract) said bar comprising soap, and alginate beads having 5 to 2500 micron in diameter (col. 4, lines 10-14).

Absent a showing to the contrary, It would have been obvious to one of ordinary skill in the art to include the alginate beads of George to the compositions of Aleles because George teach that alginate beads are well known in soap bar for encapsulating emollients or skin conditioning agents. Aleles includes emollients in said composition, therefore, it would have been obvious to one of ordinary skill in the art to include the encapsulating beads of George to the compositions of Aleles because the artisan of ordinary skill in the art would expect beneficial results by encapsulating the emollients of Aleles to provide better skin deposition properties as the emollients are applied to the body during use.

5. Claims 1-4, 7, 9 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morelli et al (6,916,493) in view of Schumucker-Castner et al (6,897,253).

Morelli et al disclose a disinfecting composition comprising skin conditioners, surfactants and an oxidizable colorant (col. 1, lines 41-51 and col. 4, lines 60-62).

Morelli et al further teach that said oxidizable colorant includes red cabbage extract as a pH indicator wherein upon contact with solution a color change takes effect because of a change in pH (col. 5, lines 50-65).

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Morelli et al does not teach sodium bicarbonate in said disinfecting composition.

Schumucker-Castner et al disclose a surfactant composition comprising surfactants and alkali material (see abstract). Specifically, Schumucker-Castner et al teach sodium bicarbonate (col. 10, line 64) as a biocide component (col. 10, lines 25-29).

It would have been obvious to one of ordinary skill in the art to include the well-known sodium bicarbonate component of Schumucker-Castner et al to the compositions of Morelli et al because Morelli et al teach compositions for disinfecting and Schumucker-Castner et al teach that sodium bicarbonate is a biocidal ingredient. Therefore, one of ordinary skill would include the component because only beneficial results would be obtained, absent a showing to the contrary.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholus Ogden whose telephone number is 571-272-1322. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Necholus Ogden
Primary Examiner
Art Unit 1751

No
10-16-05